In the Claims:

Please amend the claims as follows:

9. (amended) An oligonucleotide probe complementary to at least a portion of hMLH1 mutant 1, hMSH2 mutant 1, hMSH2 mutant 2, or hMSH2 mutant 3, said oligonucleotide probe hybridizing to hMLH1 mutant 1, hMSH2 mutant 1, hMSH2 mutant 2, or hMSH2 mutant 3.

REMARKS

Claims 2, 3 and 9 are pending in the instant application. Claims 2, 3 and 9 have been rejected. Claim 9 has been amended. NO new matter has been added by this amendment. Reconsideration is respectfully requested in light of these amendments and the following remarks.

I. Rejection of Claims 2, 3, and 9 under 35 U.S.C. § 112, second paragraph

Claims 2, 3 and 9 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner suggests that claim 9 is vague, unclear and confusing in the recitation of

an 'oligonucleotide probe to' hMLH and hMSH mutants because the metes and bounds for any characteristic of an oligonucleotide encompassed by the instant claims is not set forth. Accordingly, in an earnest effort to advance the prosecution of this case, Applicants have amended claim 9 to define the characteristics of the oligonucleotide probes. Specifically, claim 9 has been amended to state that the oligonucleotide probe is complementary to at least a portion of hMLH1 mutant 1, hMLH1 mutant 2, hMSH2 mutant 1, hMSH2 mutant 2, or hMSH2 mutant 3 and that the oligonucleotide probe hybridizes to hMLH1 mutant 1, hMLH1 mutant 2, hMSH2 mutant 1, hMSH2 mutant 2, or hMSH2 mutant 3. Support for the amendment can be found in the specification at page 18, lines 1-3 and 17-26 and page 18, line 32 through page 19, line 19.

Applicants believe that this amendment defines the metes and bounds of the oligonucleotide probes of claim 9 thereby obviating the basis for this rejection. Withdrawal of this rejection under 35 U.S.C. § 112, second paragraph is therefore respectfully requested.

II. Rejection of Claims 2, 3 and 9 under 35 U.S.C. § 102(b) and 35 U.S.C. § 102(e)

Claims 2, 3 and 9 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Weber et al. These claims have also been rejected under 35 U.S.C. § 102(e) as being anticipated by Liskay et al. The Examiner suggests that Weber et al. and Liskay et al. teach hMLH1 mutant 2 and that claim 9 includes this mutant. Further, the Examiner suggests that claim 9 can reasonably be interpreted to encompass sequences which are not overlapping or complementary to the mutation specifically described, as discussed above in the 112 second paragraph rejection.

Accordingly, in an earnest effort to advance the prosecution of this case, Applicants have amended claim 9 to remove reference to the hMLH1 mutant 2. Further, as discussed in Section I, *supra*, claim 9 has been amended to state that the oligonucleotide probes are complementary to at least a portion of the mutant and hybridize to that mutant. Applicants believe this amendment overcomes the rejections of claims 2, 3 and 9 as being anticipated by Weber et al. and Liskay et al. Withdrawal of these rejections under 35 U.S.C. 102(b) and 35 U.S.C. §102(e) is

therefore respectfully requested.

III. Conclusion

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned **"VERSION WITH MARKINGS TO SHOW CHANGES MADE."**

Respectfully submitted,

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Date: **August 1, 2002**

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

Please amend the claims as follows:

9. (amended) An oligonucleotide probe complementary to at least a portion of hMLH1 mutant 1, ~~hMLH1 mutant 2,~~ hMSH2 mutant 1, hMSH2 mutant 2, or hMSH2 mutant 3, said oligonucleotide probe hybridizing to hMLH1 mutant 1, hMSH2 mutant 1, hMSH2 mutant 2, or hMSH2 mutant 3.